

Appl. No. 09/826,583
Amdt. dated Feb 8, 2004
Reply to Office action of Aug 8, 2003

REMARKS

Claims 1-25 and 32-43 are pending. Claims 26-31 were previously cancelled. The Examiner has rejected claims 1-25 and 32-43. Applicants respectfully request reconsideration of the application in view of the remarks made herein.

I. Information Disclosure Statement Cited Materials

Unger as PRIOR ART

The Examiner has acknowledged that Unger et al is not PRIOR ART.

Quake as PRIOR ART

The Examiner has asked whether Applicants believe Quake et al. is PRIOR ART. Quake et al is NOT PRIOR ART under 35 U.S.C. §102 because it was not published more than one year prior to the filing date of this application, and because the two authors of Quake et al, Stephen R. Quake and Axel Scherer, are both co-inventors of the claimed invention, thereby the publication not being "before invention thereof by applicant for patent" under §102(a).

Other IDS Matters

The Examiner has asked whether the following IDS submitted are the only cited art by Applicants:

- Oct 10, 2001
- Jan 4, 2002
- May 7, 2002
- Aug 5, 2002
- Jan 31, 2003

Applicants believe that the above roster comprises the extent of art cited by Applicants thus far, however, in the event that additional art is to be cited, Applicants shall promptly provide such art by way of an IDS.

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The Examiner has stated that no copies of the documents which are Non-Patent Literature Documents (cited in the Oct 1, 2002 and Jan 4, 2002 IDS) have been received. Applicants shall promptly provide under a separate communication to the Examiner each of the Non-Patent Literature Documents cited in the Oct 1, 2002 and Jan 4 2002.

II. Rejections Under 35 U.S.C. §102(b)

O'Keefe

The Examiner has rejected claims 1-25 and 32-43 under 35 U.S.C. §102(b) as being anticipated US Patent No. 3,495,608 by O'Keefe. Applicants respectfully traverse this rejection for the following reasons.

The Examiner states that O'Keefe discloses "a plurality of microfabricated channels formed in an elastomeric block". Applicants politely point out that O'Keefe cannot disclose a plurality of channels formed in an elastomeric block because O'Keefe does not disclose an elastomeric block. The fluidic device of O'Keefe is held together using rivets.

All of the layers above-described are provided with suitably located holes & (FIGS 1, 3 and 4) through which rivets (not shown) may be inserted to maintain the assembly together.

O'Keefe, column 5, lines 17-20.

Accordingly, O'Keefe cannot be said to anticipate the claimed invention because O'Keefe discloses a compressed together structure, not an elastomeric block as claimed. It is well settled that for a reference to anticipate, it must disclose each and every element of the claimed invention. Applicants respectfully request withdrawal of this rejection.

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CONCLUSION

Applicants believe the claim is now in condition for allowance for the foregoing reasons. Accordingly, Applicants respectfully request a Notice of Allowance. If, in the Examiner's opinion, a telephone conference may be helpful, Applicants' counsel may be contacted at the number below.

Respectfully submitted
under 37 C.F.R. 1.34(a),



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